

## **Service of Process on Okinawa**

### **By Rudy Wartella**

Service of Process has been the comic relief in many movies. Usually it involves one party trying to avoid personal service and the other party thinking up clever ways to serve. In real life, service of process is not so funny. It usually means that someone is taking you to court.

Service of process in the United States is usually done by the sheriff, a process server, or a non-party over eighteen years of age. Overseas, this can be more difficult since the local process server is not going to fly to Okinawa to serve process. Our office frequently gets asked how we can serve someone on Okinawa. Well, one thing is clear, Department of the Army officials do not serve process, at least not the way you may think.

Army Regulation 47-40, Paragraph 2-5c<sup>i</sup> makes it clear what a DA official will do if he or she receives a request to serve State court process on a person overseas (this is usually, but not always, a family law case). The DA official (usually a commander) will determine if the Soldier wants to “accept service voluntarily.” These Soldiers will be given an opportunity to see a legal assistance attorney. If the Soldier does not want to accept service, the requester will be notified and advised on what procedures to follow<sup>ii</sup>.

A Soldier may have many reasons why he or she may want to avoid service of process. Sometimes, however, they are just delaying the inevitable. If a Soldier is given an opportunity to see a legal assistance attorney before accepting process, he or she may call the legal assistance office for assistance in making that decision. The Army on Okinawa Legal Assistance Office is on Torii Station in Building 218, Room 219. October, 2009.

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<sup>i</sup> Process of State courts. If a DA official receives a request to serve State court process on a person overseas, he or she will determine if the individual wishes to accept service voluntarily. Individuals will be permitted to seek counsel....

<sup>ii</sup> If the person will not accept service voluntarily, the party requesting service will be notified and advised to follow procedures prescribed by the law of the foreign country concerned. (See, for example, The Hague Convention, reprinted in 28 U.S.C.A. Federal Rules of Civil Procedure, following Rule 4.)